

Kuzin, John

From: Kuzin, John
Sent: Tuesday, November 25, 2008 5:23 PM
To: 'charles.mathias@fcc.gov'
Cc: Pettit, Robert
Subject: Email from Medtronic Relating to the MedRadio Proceeding

Dear Mr. Mathias:

Medtronic is pleased to provide the FCC with additional information regarding: (1) the status of the 401-406 MHz band in Europe, including the activity of CEPT; and (2) the status of authorizing wireless hearing aids in the same band in Europe.

On the first issue, CEPT (in ERC/REC 70-03 annex 12) divided the 401-406 MHz band into two subbands that are fully consistent with the FCC's MICS rules and proposed MEDS rules. CEPT adopted ETSI product specific Harmonized Standards consistent with the spectrum usage requirements of the RTTE (Radio & Telecommunications Terminal Equipment) Directive for both bands, which is binding law on all European Union Member States.

Like the FCC's MICS rules, the ETSI MICS Harmonized Standard EN 301 839 specifies a core band at 402-405 MHz exclusively for implantable medical devices and associated programmer/controllers. And, like the FCC's proposed MEDS rules, the ETSI MEDS Harmonized Standard EN 302 537 specifies wing-bands at 401-402 and 405-406 MHz to support body-worn sensors, implantable medical devices, and associated external data collection equipment.

On the second issue, ON Semi's efforts to have a portion of the 401-406 MHz band allocated in Europe for use by wireless hearing aids has faced strong opposition due to the devices' very high duty cycle requirements. (The "always on" operation of wireless hearing aids is the reason why the FCC MICS regulations and ETSI MICS and MEDS standards specifically prohibit voice communications.) ON Semi's recent statement to the FCC that 13 European countries have authorized deployment of wireless hearing aids in the MICS band at 404.2 MHz, *see* ON Semi Ex Parte at 9 (Oct. 3, 2008), is not accurate. In fact, the European Telecommunications Conformity Assessment and Market ("TCAM") Surveillance Committee decided that wireless hearing aid operation in the band is not compliant with the RTTE Directive and that any such products should be withdrawn from the market. *See* Zarlink Ex Parte at 3 (Oct. 27, 2008); Medtronic Ex Parte (Oct. 21, 2008). In addition, the 401-406 MHz band is the only spectrum available for ultra-low-power body-worn and implantable medical devices, and major hearing aid manufacturers (such as Oticon, Phonak, and Siemens) currently offer successful wireless hearing aid products that use other spectrum.

Feel free to contact me if you require additional information.

Regards -

11/25/2008

John W. Kuzin
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
 202.719.3506 fax 202.719.7049
 E-Mail jkuzin@wileyrein.com
